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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ADAM GEORGE, an individual,

Plaintiff,

v.

PURSECASE, LLC, a California limited
liability company; CONCRETE IMAGES,
INC., a California corporation; MFACTOR,
INC., a California corporation; and DOES 1
through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT
2. VIOLATIONS OF THE
DIGITAL MILLENNIUM
COPYRIGHT ACT
(17 U.S.C. §1202)

Jury Trial Demanded

ADAM GEORGE, by and through his undersigned attorneys, hereby prays to
this honorable Court for relief based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
et seq.

1 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
 2 inclusive, are presently unknown to Plaintiff, who therefore sues said Defendants by
 3 such fictitious names, and will seek leave to amend this Complaint to show their true
 4 names and capacities when same have been ascertained.

5 9. Plaintiff is informed and believes and thereon alleges that at all times
 6 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
 7 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
 8 at all times acting within the scope of such agency, affiliation, alter-ego relationship
 9 and/or employment; and actively participated in or subsequently ratified and/or
 10 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
 11 circumstances, including, but not limited to, full knowledge of each violation of
 12 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

13 **CLAIMS RELATED TO USE OF PHOTOGRAPHIC IMAGES**

14 10. Plaintiff GEORGE owns an original photograph ("Subject Work") that has
 15 been registered with the United States Copyright Office.

16 11. Plaintiff is informed and believes and thereon alleges that following
 17 GEORGE's creation of the Subject Works, PURSECASE, CONCRETE,
 18 MFACTOR, DOE Defendants, and each of them used photographs that are
 19 substantially similar to the Subject Work (hereinafter "Subject Photographs")
 20 without Plaintiff GEORGE's authorization for commercial purposes in various ways,
 21 including, but not limited to, the use in articles and advertising on websites.

22 12. An image of the Subject Work and exemplars of the Subject Photographs
 23 are set forth hereinbelow:

24 ///

25 ///

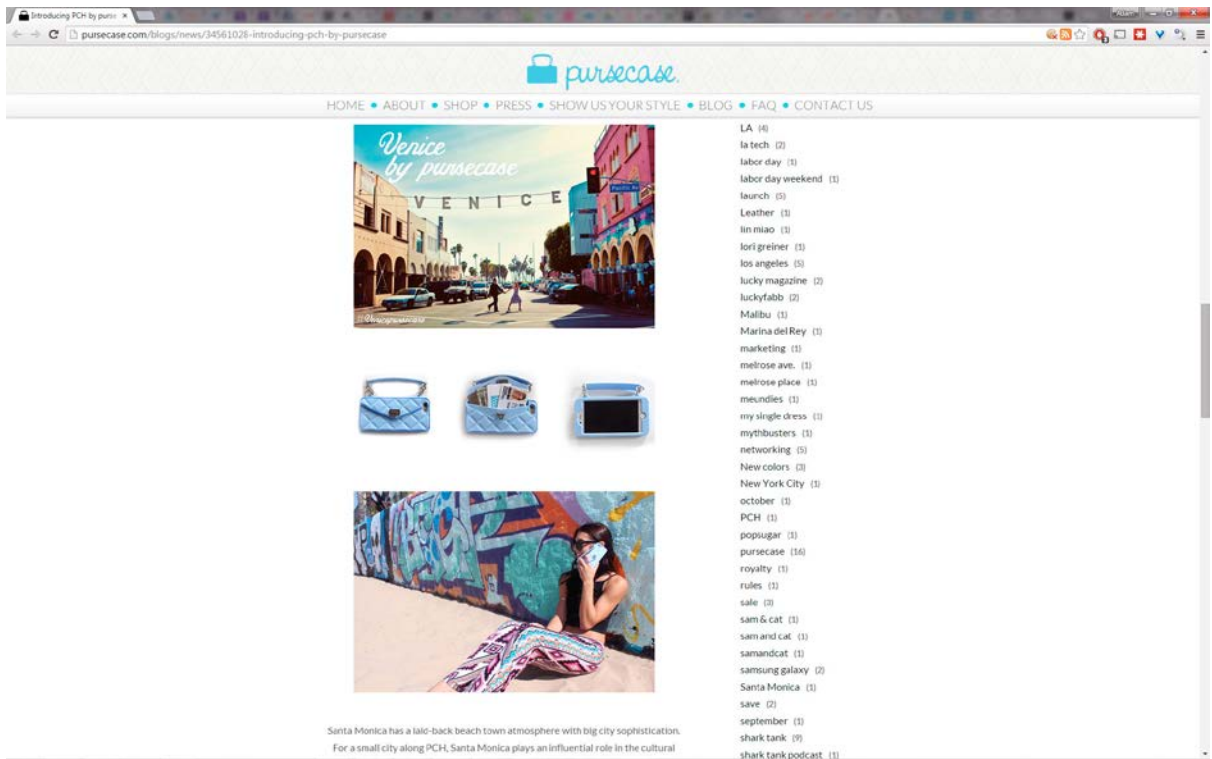
26 ///

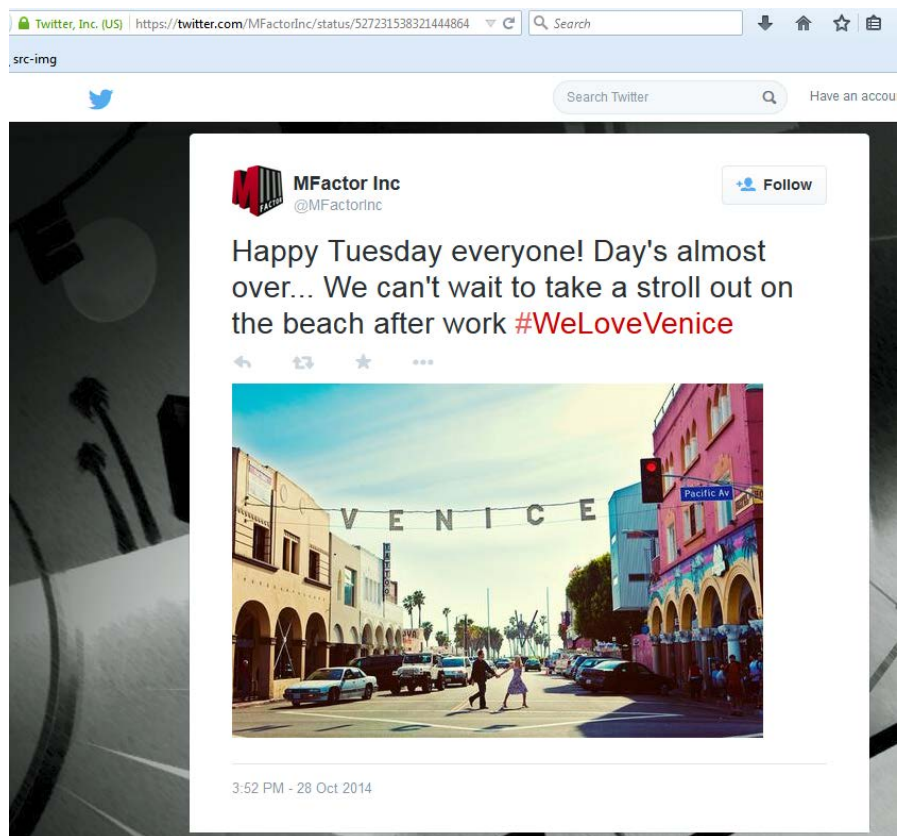
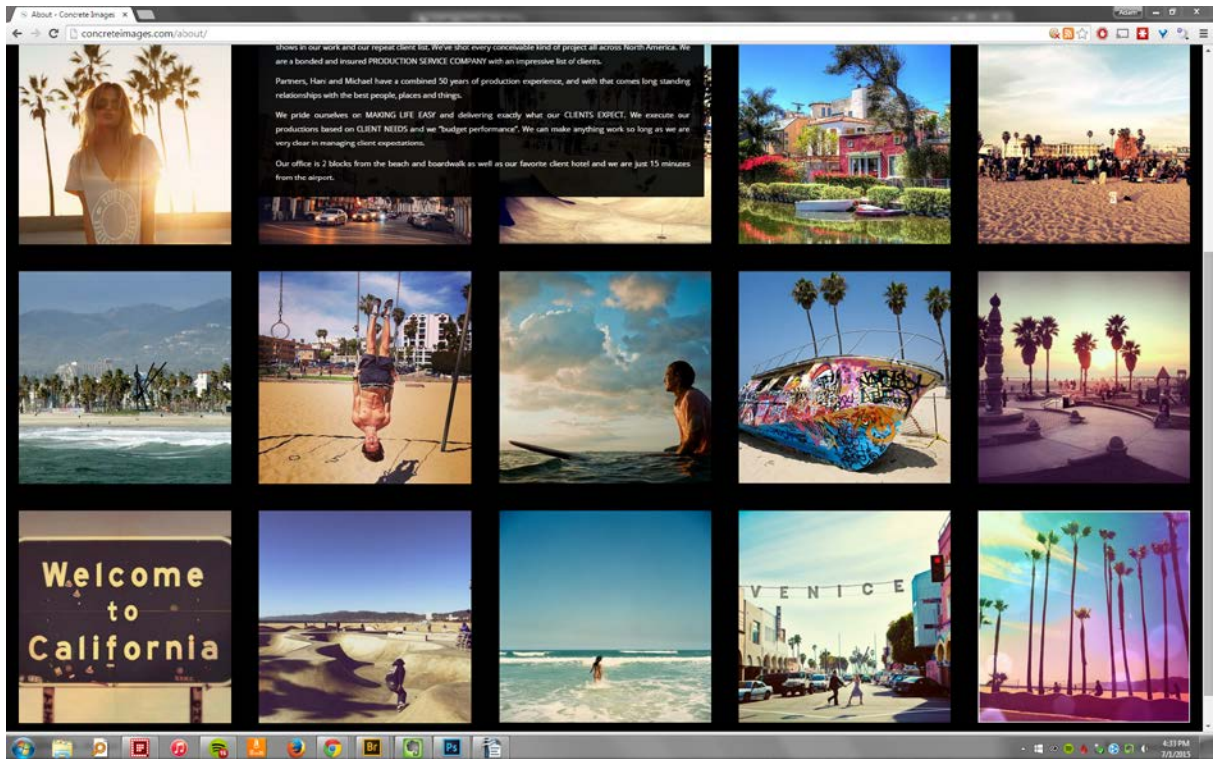
27 ///

Subject Work



Subject Photographs





FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

13. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Works, including, without limitation, through (a) copies provided directly by Plaintiff or (b) copies provided by Defendant AP.

15. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, used and distributed images that were copied from the Subject Photographs, and exploited said images in multiple website posts.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyrights by creating, making and/or developing directly infringing and/or derivative works from the Subject Works and by producing, distributing and/or selling Subject Product online.

17. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's rights by copying the Subject Photographs without Plaintiff's authorization or consent

18. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered damages in an amount to be established at trial.

19. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained profits they would not otherwise have realized but for their infringement of the Subject Works. As such, Plaintiff is entitled to disgorgement of Defendants', and each of their, profits attributable to the infringement of Subject Works in an amount to be established at trial.

1 20. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, have committed copyright infringement with actual or constructive
3 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
4 and continue to be, willful, intentional and malicious.

5 **SECOND CLAIM FOR RELIEF**

6 ((For Violations of the Digital Millennium Copyright Act (17 U.S.C. §1202 –
7 Against all Defendants, and Each)

8 21. Plaintiff repeats, re-alleges, and incorporates herein by reference as
9 though fully set forth, the allegations contained in the preceding paragraphs of this
10 Complaint.

11 22. Plaintiff is informed and believes and thereon alleges that Defendants,
12 and each of them, violated 17 U.S.C. §1202(b) by intentionally removing and/or
13 altering the copyright management information on the copy of at least one Subject
14 Photograph ("Mislabeled Copy"), and distributing copyright management
15 information for the Mislabeled Copy with knowledge that the copyright management
16 information had been removed or altered without authority of the copyright owner or
17 the law, and distributing and publicly displaying the Mislabeled Copy, knowing that
18 copyright management information had been removed or altered without authority of
19 the copyright owner or the law, and knowing, or, with respect to civil remedies under
20 section 1203, having reasonable grounds to know, that the conduct would induce,
21 enable, facilitate, or conceal an infringement of any right under this title.

22 23. Plaintiff is informed and believes and thereon alleges that Defendants,
23 and each of them, knowingly removed and altered the copyright management
24 information on the Mislabeled Copy.

25 24. The above conduct is in violation of the Digital Millennium Copyright
26 Act and exposes Defendants, and each of them, to additional and enhanced common
27

1 law and statutory damages and penalties pursuant to 17 USC § 1203 and other
2 applicable law.

3 25. Plaintiff is informed and believes and thereon alleges that Defendants,
4 and each of their, conduct as alleged herein was willful, reckless, and/or with
5 knowledge, and Plaintiff resultantly seeks enhanced damage and penalties.

6 **PRAYER FOR RELIEF**

7 Wherefore, Plaintiff prays for judgment as follows:

8 **Against All Defendants, and Each:**

9 **With Respect to Each Claim for Relief**

- 10 a. That Defendants, and each of them, as well as their employees, agents,
11 or anyone acting in concert with them, be enjoined from infringing
12 Plaintiff's copyrights in the Subject Photographs and Subject Work,
13 including without limitation an order requiring Defendants, and each of
14 them, to remove any content incorporating, in whole or in part, the
15 Subject Photographs or the Subject Work from any print, web, or other
16 publication owned, operated, or controlled by any Defendant.
- 17 b. That Plaintiff be awarded all profits of Defendants, and each of them,
18 plus all losses of Plaintiff, plus any other monetary advantage gained by
19 the Defendants, and each of them, through their infringement, the exact
20 sum to be proven at the time of trial, and, to the extent available,
21 statutory damages as available under the 17 U.S.C. § 504, 17 U.S.C.
22 §1203, and other applicable law.
- 23 c. That a constructive trust be entered over any revenues or other proceeds
24 realized by Defendants, and each of them, through their infringement of
25 Plaintiff's intellectual property rights;
- 26 d. That Plaintiff be awarded his attorneys' fees as available under the
27 Copyright Act U.S.C. § 101 et seq.;

- e. That Plaintiff be awarded his costs and fees under the statutes set forth above;
- f. That Plaintiff be awarded statutory damages and/or penalties under the statutes set forth above;
- g. That Plaintiff be awarded pre-judgment interest as allowed by law;
- h. That Plaintiff be awarded the costs of this action; and
- i. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Respectfully submitted,

Dated: November 17, 2015

DONIGER/BURROUGHS

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
Howard S. Han, Esq.
Attorneys for Plaintiff